

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Alexander Post Office
(Alexander, Kansas)

Docket No. A2012-90

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(February 9, 2012)

I. INTRODUCTION AND BACKGROUND

On November 30, 2011, the Postal Regulatory Commission (Commission) docketed a petition for review of the closing of the Alexander Post Office in Alexander, Kansas. The petition for review was filed by the City of Alexander (Petitioners) on November 24, 2011.¹ On December 21, 2011, the Commission issued an order instituting the current review proceedings, appointing a Public Representative (PR), and establishing a procedural schedule.² On December 15, 2011, the Postal Service filed an electronic version of the administrative record concerning its Final Determination, Postal Service Docket Number 1352653-67513.³

¹ Petition Received from the City of Alexander Against the Closure of the Alexander Post Office, November 24, 2011 (Petition).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 21, 2011. (Order No. 1063).

³ United States Postal Service Notice of Filing Administrative Record, December 15, 2011 (AR).

The Petitioners filed Participant Statements supporting their appeal on January 5, 2012.⁴ The Postal Service filed comments supporting its closure determination on January 23, 2012, in lieu of a legal brief.⁵

II. STATEMENT OF FACTS

The Alexander Post Office is described by the Postal Service in its Final Determination as an EAS-55 level post office located in Alexander, Kansas, Rush County. AR, Item No. 1 at 1. The post office has 120 installed post office boxes. Before being closed, the Alexander Post Office provided service to 66 customers: 43 post office box customers, and 23 rural delivery customers. *Id.*, Item No. 1 at 1. Based on a two-week study conducted from February 26 to March 17, 2011, the Alexander Post Office averaged 18.2 daily retail window transactions representing 19.5 minutes of retail workload daily. *Id.*, Item No. 10 at 1.

On April 15, 2011, the Postal Service notified customers of the Alexander Post Office of a possible change in the way their postal service is provided. *Id.*, Item No. 21 at 1. As described in the notice, customers were given the option of receiving pickup, delivery, sale of stamps and all other customary postal services by rural route service from the Bazine Post Office located 9 miles away. *Id.* Included was a questionnaire to be completed and returned by April 14, 2011. *Id.* A total of 84 questionnaires were distributed to customers, and 25 were completed and returned. The Administrative Record shows that: none responded favorably to the proposal, 10 expressed opposition or concern, and 15 expressed no opinion. *Id.*, Item No. 23 at 1.

In addition, customers were invited to attend a public meeting at the Alexander Fire Hall at which Postal Service representatives would be available to answer questions and provide information about postal service to the community. *Id.* The

⁴ Participant Statement of the City of Alexander, January 5, 2012 (Participant Statement)

⁵ United States Postal Service Comments Regarding Appeal for Review of the Alexander Post Office, January 23, 2012 (Postal Service Comments).

meeting was held on April 14, 2011 as scheduled with 27 customers in attendance. *Id.*, Item No. 24 at 1.

An invitation to file comments on the proposal was posted in the Alexander Post Office on July 20, 2011 and removed on September 20, 2011. *Id.*, Item No. 36 at 1. The invitation also was posted at the Bazine Post Office for sixty days. *Id.*, Item No. 36a at 2. A total of 3 comments were received during this posting period: 2 unfavorable and 1 expressed no opinion. *Id.*, Item No. 40 at 1.

On October 24, 2011, the Final Determination to close the Alexander Post Office was approved. *Id.*, Item No. 49 at 18. The decision was based upon (1) the vacancy of the postmaster's position; and (2) decline in workload and customer demand. *Id.*, at 2. The Final Determination did consider and respond to various concerns expressed by customers. *Id.*, Item No. 49.

III. POSITIONS OF THE PARTIES

A. The Petitioners

The Petitioners present the following arguments in opposition to the closing of the Alexander Post Office:

1. The effect on providing effective postal service to the community - the Petitioners argue that the community is composed of mostly elderly people who are not able to get around or drive. According to the Petitioners, Alexander is a rural community with many farmers who live several miles out in the country and some farmers drive 10 miles to get to Alexander, and would have to drive additional 10 miles to get to the Bazine Post Office. Participant Statement at 3.
2. The effect on the community – the Petitioners claim that the post office is the only place of business in the community except for the Midstate Coop, and its closure would be taking away the heart of the community. Participant Statement at 3.

3. The economic savings – the Participants argue that closing the post office would only save a small portion of the Postal Service financial deficit, but the existence of the Alexander Post Office would worth a lot more to the community. Participant Statement at 3.

B. The Postal Service

On January 23, 2012, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 1063. In this filing, the Postal Service supports its decision to close Alexander Post Office for the following reasons: (1) the postmaster vacancy; (2) a minimal workload; (3) a declining office revenue; (4) availability of a variety of delivery and retail options; (5) an expected decline in growth in the area; (6) minimal impact upon the community; and (7) the expected financial savings. Postal Service Comments at 4.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds are: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does

not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.⁶

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A)

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners and the Petition submitted by customers of the Alexander Post Office, and the Postal Service Comments, the Public Representative finds that the Postal Service has followed applicable procedures. However, the decision to close the Alexander Post Office is unsupported by substantial evidence.

⁶ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal.

Economic Savings - The Postal Service provides estimates of \$28,104 in annual economic savings after deducting the estimated cost of the replacement service. AR, Item No. 49, at 7. The economic savings calculation is based on the Postmaster's salary and benefits of \$30,738, and annual lease cost of \$4,020. The cost of the alternative rural route service is estimated at \$6,654. *Id.*

A non-career employee has been assigned as the temporary officer-in-charge (OIC) to operate the Alexander Post Office since the retirement of the postmaster on November 30, 2009. *Id.*, at 2. If the salary of the OIC that is currently operating the post office was used in the calculation, the total annual cost could probably be much less than the amount reported in the Administrative Record.⁷ On the other hand, the Administrative Record shows that office receipts for the Alexander Post Office were \$30,399 in 2008, \$23,494 in 2009, and \$24,176 in 2010, averaging \$26,024 annually. Since the Administrative Record does not provide information about the salary of the OIC, the PR cannot certainly determine whether or not the annual office receipts cover the total annual cost of operating the Alexander Post Office. However, it is possible that the annual office receipts could cover the current annual operating cost of the post office.

Declining Office Receipts and Workload – The Postal Service cites declining office receipts and workload over the last three years as additional reasons for closing the Alexander Post Office. Contrary to Postal Service's assertion, office receipts, although declined in 2009, exhibited slight growth in 2010. AR, Item No. 49 at 15.

In addition, the PR didn't find adequate evidence in the Administrative Record that supports Postal Service's assertion of declining workload and customer demand

⁷ "Temporary employees hired as OICs are paid in accordance with the Officers in Charge schedule. Prior to hiring a temporary employee for other positions, the installation head or other appointing official should carefully assess operational needs of the office and determine the EAS grade for the types of work to be performed. Based on this determination, the temporary employee is hired at the minimum salary for that grade. The full-time salary is divided by 2080 to determine the appropriate hourly rate." See the 2011 Employee and Labor Relations Manual, Page 418-2, available at <http://about.usps.com/manuals/elm/elm.htm>.

over the last three years. *Id.*, at 2. The Administrative Record provides results of a two-week survey of window transaction, incoming mail, and dispatched mail conducted from February 26 to March 11, 2011; and assessment of postmaster workload as of March 17, 2011, and workload service credit (WSC) as of March 15, 2011. *Id.*, Item No. 8 to 12. Based on such scanty information, the PR could not determine whether or not workload has been declining over the last three years.

VI. CONCLUSION

The Public Representative concludes that the Postal Service did not adequately considered the economic savings from closing the Alexander Post Office as required by 39 U.S.C. § 404(d)(2)(A)(iv). Moreover, the Administrative Record does not provide adequate evidence supporting Postal Service's assertion that office revenue and workload has been consistently declining over the last three years. Due to these reasons, the Commission should remand the Final Determination close the Alexander Post Office.

Respectfully Submitted,

/s/ Getachew Mekonnen

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